

Exhibit 28

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 No. 18 Civ. 2949 (ARR) (RER)

- - - - -x

5
6 SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

7
8 Plaintiffs,

- against -

9
10 XOOM ENERGY, LLC AND XOOM ENERGY
NEW YORK, LLC,
11 Defendants.

12 - - - - -x

13
14 16 Court Street
Brooklyn, New York 11241

15
16 August 30, 2022
10:21 a.m.

17
18 DEPOSITION of SUSANNA MIRKIN (REDACTED),
19 a Plaintiff in the above-entitled action,
20 held at the above time and place, taken
21 before SAMUEL HITTIN, a Shorthand Reporter
22 and Notary Public of the State of New
23 York, pursuant to the Federal Rules of
24 Civil Procedure, order and stipulations
25 between Counsel.

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2 A. I'm not sure. He takes care of
3 all the bills, so I'm not sure.

4 Q. Okay. Okay. And you personally
5 don't know anything about the natural gas
6 rates that XOOM charged in New York since
7 it entered the market here, correct?

8 A. The gas?

9 Q. Yes, ma'am.

10 A. No.

11 Q. You said that your husband is
12 the one who takes care of the bills. Is
13 he generally -- is it fair to say he's the
14 one who is generally in charge of energy
15 decisions in the house?

16 A. Correct.

17 Q. Does he consult with you about
18 retail energy decisions?

19 A. Sure, we discuss it, but he
20 takes care of it at the end.

21 Q. Okay. Just help me understand
22 in a basic way how it works in your
23 household with respect to selecting energy
24 providers for electricity or natural gas.

25 A. So he basically looks for the

1 S. MIRKIN

2 when I first heard about it.

3 Q. Why did he enroll under your
4 name?

5 A. To have something under my name,
6 to have residential proof.

7 Q. Residential proof for you?

8 A. Yes.

9 Q. Did you need that for
10 employment?

11 A. For employment.

12 Q. I see.

13 At the time, did you understand
14 that the rate that you were enrolling with
15 XOOM was a rate that could vary from month
16 to month?

17 A. My husband probably did, but it
18 wasn't in my understanding. When we
19 applied, he told me it was the lowest
20 rate, and I agreed, so he took care of the
21 rest.

22 Q. You didn't have an understanding
23 as to whether the rate was fixed or
24 variable at the time?

25 A. No.

CERTIFICATION

I, Samuel Hittin, a Notary Public for
and within the State of New York, do
hereby certify:

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 6th day of September,
2022.



SAMUEL HITTIN

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